

(Post 11/2015)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JUN 11 2020  
By: JAMES W. MCCORMACK, CLERK  
DEP. CLERK

FLOYD TERRY SMITH

(Name of plaintiff or plaintiffs)

v.

CIVIL ACTION NO. 4:20CV737-JM  
(case number to be supplied by the assignment clerk)

ARKANSAS STATE MILITARY Department

This case assigned to District Judge Meedy  
and to Magistrate Judge Valpe

(Name of defendant or defendants)

**COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff, FLOYD TERRY SMITH, is a  
(name of plaintiff)  
citizen of the United States and resides at 7645 VESTAL BLVD Apt 5,  
(street address)  
No. Little Rock, Pulaski, ARKANSAS, 72113,  
(city) (county) (state) (ZIP)  
501-231-3073.  
(telephone)

3. Defendant, ARKANSAS STATE Military Department, lives at, or its  
(name of defendant)  
business is located at Bldg. 4201 Box 28 Camp Joseph T. Robinson No. Little Rock,  
(street address) (city)  
Pulaski, ARKANSAS, 72199.  
(county) (state) (ZIP)

4. Plaintiff sought employment from the defendant or was employed by the

5. Defendant discriminated against plaintiff in the manner indicated in paragraphs 9 and 10 of the complaint on or about 01 03 2019.  
(month) (day) (year)

6. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission charging defendant with the acts of discrimination indicated in paragraphs 9 and 10 of this complaint on or about 02 12 2019.  
(month) (day) (year)

7. The Equal Employment Opportunity Commission issued a Notice of Right to Sue which was received by plaintiff on 03 12 2020, a copy of which notice is attached to this complaint.  
(month) (day) (year)

8. Because of plaintiff's (1) X race, (2) \_\_\_\_\_ color, (3) \_\_\_\_\_ sex,  
(4) \_\_\_\_\_ religion, (5) \_\_\_\_\_ national origin, defendant:

- (a) \_\_\_\_\_ failed to employ plaintiff.
- (b) X terminated plaintiff's employment.
- (c) \_\_\_\_\_ failed to promote plaintiff.
- (d) \_\_\_\_\_

9. The circumstances under which the defendant discriminated against plaintiff were

as follows: On January 3, 2019, I was discriminated against when I released from work after 20 years of employment with the Arkansas STATE Military Department. After filing multiple complaint for discrimination I was discharged in retaliation for filing a discrimination charge for violating the Title VII of Civil Rights Act of 1964. I was denied interviews for opened Job announcements for advancement. I was denied supervision over the employees that I supervised and even denied to recommend termination on the employees who violated policy and procedure.

10. The acts set forth in paragraph 9 of this complaint:

- (a) X are still being committed by defendant.
- (b) \_\_\_\_\_ are no longer being committed by defendant.
- (c) \_\_\_\_\_ may still be being committed by defendant.

11. Plaintiff attaches to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission which charges are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) \_\_\_\_\_ Defendant be directed to employ plaintiff, and
- (b) X Defendant be directed to re-employ plaintiff, and
- (c) X Defendant be directed to promote plaintiff, and
- (d) X Defendant be directed to pay Pain and Suffering

and that the Court grant such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Donald Leroy Smith  
SIGNATURE OF PLAINTIFF

# UNITED STATES DISTRICT COURT

for the

District of

Division

Case No.

(to be filled in by the Clerk's Office)

FLOYD TERRY SMITH

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

ARKANSAS STATE Military Department

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☐ Yes ☐ No

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

### NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	FLOYD TERRY SMITH		
Address	7645 VESTAL BVD Apt. 5		
	No. Little Rock	AR	72113
	City	State	Zip Code
County	Pulaski County		
Telephone Number	501-231-3073		
E-Mail Address	t.titan05@yahoo.com		

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	ARKANSAS STATE Military Department		
Job or Title (if known)			
Address	Bldg 4201 BOX 28 Camp Joseph T. Robinson		
	No. Little Rock	AR	72199
	City	State	Zip Code
County	Pulaski County		
Telephone Number	501-212-5167		
E-Mail Address (if known)			
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

**Defendant No. 2**

Name			
Job or Title (if known)			
Address			
	City	State	Zip Code
County			
Telephone Number			
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity			

## Defendant No. 3

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐ Individual capacity☐ Official capacity

## Defendant No. 4

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐ Individual capacity☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Civil Rights of 1964 Title VII Race discrimination and Retaliation

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Civil Rights of 1964

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

I was Retaliated against and terminated against for Filing Suite

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur? At the Arkansas State Military Department
- B. What date and approximate time did the events giving rise to your claim(s) occur? This occurred on January 3, 2019
- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) Arkansas State Military gave me my letter of termination on January 3, 2019. General Pain gave me a letter for termination for False Allegation Alleged by my employees. Prior to Mrs. Patricia Pullum retiring she witnessed the discrimination and retaliation against me. I was terminated on False allegation with no proof that I committed such horrible acts. I was denied all documents to prove my case against them and denied a hearing to prove my innocence.

**IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. I'm seeking pain and suffering for mental anguish. For PTSD causing me to not be able to sleep at night.

**V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like for the courts to seek damages on my behalf for \$200,000.00 and reimbursement for Attorney fees, reinstate all my retirement, all leave including Annual, sick, Holiday and Clear my personal records of all harmful information that was put in the State system to be unhireable throughout the State. Reimburse all court fees that was associated with this case, for being Retaliated against and discriminated against while employed on the Camp Robinson Military Base



**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: June 11, 2020

Signature of Plaintiff

Printed Name of Plaintiff

Floyd Terry Smith  
FLOYD TERRY SMITH

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

*City*

*State*

*Zip Code*

Telephone Number

E-mail Address

## DISMISSAL AND NOTICE OF RIGHTS

To: **Floyd T. Smith**  
**1305 Puritan Drive**  
**Jacksonville, AR 72076**

From: **Little Rock Area Office**  
**820 Louisiana**  
**Suite 200**  
**Little Rock, AR 72201**

**FILED**  
 U. S. DISTRICT COURT  
 EASTERN DISTRICT ARKANSAS  
 JUN 9 8 2020  
**JAMES W. MCCORMACK, CLERK**  
 DEP CLERK



**COPY**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

4:20-cv-00737-AM

EEOC Charge No.

EEOC Representative

Telephone No.

**493-2019-00552**

**Tyrone Y. Blanks,**  
**Investigator**

**(501) 324-5083**

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**MAR 12 2020**

Enclosures(s)

**William A. Cash, Jr.,**  
**Area Office Director**

(Date Mailed)

cc:

**Melissa Butler, Esq.**  
**EEO/Grievance Officer**  
**Department of the Military**  
**Building 4201 Box 28**  
**Camp Joseph T. Robinson**  
**North Little Rock, AR 72199**

This case assigned to District Judge Miller  
 and to Magistrate Judge X

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***



**Little Rock Area Office**

820 Louisiana St., Suite 200

Little Rock, AR 72201

Intake Information Group: (800) 669-4000

Intake Information Group TTY: (800) 669-6820

Little Rock Direct Dial: (501) 324-5061

FAX (501) 324-5991

Website: [www.eeoc.gov](http://www.eeoc.gov)

Mr. Floyd T. Smith  
1305 Puritan Drive  
Jacksonville, AR 72076

Re: Floyd T. Smith vs. Arkansas Military Department  
EEOC Charge No. 493-2019-00552

Dear Mr. Floyd:

The enclosed Notice terminates our processing of your charge and gives notice of your right to sue within 90 days. On March 13, 2019, a copy of Respondent's Position Statement was released to you through the Commissions Public Portal. All evidence collected during the investigation was thoroughly reviewed, and the evidence did not support a violation of the law. The investigation revealed the following facts.

You alleged that you were denied a promotion interview because of your race (Black) and discharged in retaliation for filing multiple charges of discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended. You alleged that you applied for the position of Chief prior to taking a medical leave of absence beginning July 3, 2018. You alleged that when you were released from work, you were summarily discharged on or about January 3, 2019.

The evidence shows that after Gary Dennis left the position of Chief in June 2018, you applied and was interviewed for the job. The evidence shows you subsequently took medical leave the following month and remained off work until about January 3, 2019. During your absence, Respondent filled the vacant Chief position on or about October 8, 2018 with someone who was among those applied along with you and others for the job. The evidence shows you violated behavioral policies and written rules and the interests of the Respondent with respect to treatment of other employees. Specifically, the evidence shows that you ridiculed and employee while she was dealing with a family emergency and behavior that led to another officer submitting his letter of resignation. The evidence shows you were discharged for creating a hostile work environment.

No further action will be taken by this Office regarding your Charge of Discrimination. The District Director's determination in this matter is attached. This determination concludes the processing of the charge by the EEOC, but does not affect your right to sue on your own behalf.

Floyd T. Smith vs. Arkansas Military Department

**Charge No. 493-2019-00552**

continued page -2-

You may pursue the matter by filing in Federal District Court as explained in the Dismissal and Notice of Rights and the Information Sheet.

Sincerely,

**MAR 12 2020**

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Date

*Tyrone Blanks*  
Tyrone Blanks  
Investigator

Enclosure (Form 161 w/attachments)

On January 3, 2019, I (Floyd Terry Smith) was terminated from my position as Captain from the Camp Robinson Police Department at the Arkansas State Military Department. I was terminated on false accusation made by my employees at the military department to keep me from advancing to the next position. I was discriminated against base of my race as a black male and retaliation for filing multiple discrimination against the military department.

I was falsely accused of directing employees to violate people civil rights by having them arrest people and tow their vehicles without probable cause. I had a supervisor that would have been aware of any wrongdoing and would have been equally guilty of the same offense if this would have occurred. The military department only heard false allegation made by employees who was retaliating against me from past reprimands given by me per my boss, Gary Dennis, and Stan Crisp.

I was also falsely accused of discriminating against a female employee for denying her one training class.

This false accusation was proven by a letter I received instructing me that the female officer wasn't allowed to attend these classes because she only had three months out of the rookie training class and this class was for officers with three or more years in law enforcement. This was verified by a letter from the Arkansas STATE law enforcement school, CJI.

6/11/2020 [Signature]

I was also accused of sending a text an employee that stated, "he was a back stabber." That text was sent to the officer by mistake and employees with more severe conduct was allowed to keep their jobs and even be promoted to higher position in the agency on Camp Robinson. I have documents to prove this unfair justice and discrimination practices. I wasn't given the same rights and privilege as Caucasian employees, who committed and broke policy. I had over 20 years with the Arkansas State Military Department and never had a complaint of this nature. I was terminated after I came back to work after 6 months of being on Worker Comp leave and filing a federal Law Suite for discriminating against me after filing an EEOC complaint after I only received one interview of the three I applied for. I have document and witnesses that can contest to this discrimination practices. I was never in full charge of my department because I always had a supervisor and they would have been full aware of any wrong doing because this would have been addressed sooner not after I was on a workers Comp injury.

Angel S. S. 6/11/2020